

The appellant explains that her PMIS records were not updated until January 1, 2021, and as such, she was not aware that she would be required to repay the salary overpayment amount. As such, the appellant requests a waiver of the salary overpayment in this matter.

In support, by way of a January 27, 2021 e-mail, the appointing authority explains that the appellant's interim appointment placed her in a "Y" title from June 6, 2020 to January 2, 2021. The appointing authority asserts that it made an administrative error as it did not timely remove her from the interim appointment that resulted in the salary overpayment. The appointing authority contends that the salary overpayment has resulted in a financial hardship to the appellant.² However, no specific information was provided to demonstrate how the terms of a repayment schedule would result in a financial hardship to the appellant.

CONCLUSION

N.J.A.C. 4A:3-4.21 Salary overpayments: State service, provides as follows:

- (a) The [Commission] may waive, in whole or in part, the repayment of an erroneous salary overpayment, or may adjust the repayment schedule based on consideration of the following factors:
 1. The circumstances and amount of the overpayment were such that an employee could reasonably have been unaware of the error;
 2. The overpayment resulted from a specific administrative error, and was not due to mere delay in processing a change in pay status;
 3. The terms of the repayment schedule would result in economic hardship to the employee.

It is well settled that **all** of the factors outlined in *N.J.A.C.* 4A:3-4.21 must be satisfied to successfully obtain a waiver of the repayment obligation. Thus, in *In the Matter of Thomas Micai v. Commissioner of Department of Personnel, State of New Jersey*, Docket No. A-5053-91T5 (App. Div., July 15, 1993), the Superior Court of New Jersey, Appellate Division, affirmed the Commissioner of Personnel's decision to deny

² The appointing authority notes that the appellant performed the duties of a Supervisor, Personnel Records and Payroll Processing 2 since April 2020. However, it explains that she was not immediately appointed to the interim title, as the permanent employee in the title requested a leave of absence and was unsure of how long of a leave period would be required to be utilized at that time. As such, the appointing authority states that the appellant was not paid for three pay periods for the work she performed in the higher title.

a request for waiver of repayment of salary overpayment, finding that, although the appellant had established that the overpayment was the result of an administrative error, he failed to show that enforcement of the repayment would create economic hardship.

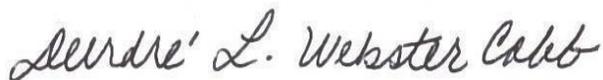
In the instant matter, the petitioner argues that she was unaware of the salary overpayment of \$349.02, and as such, she requests a waiver of the salary overpayment. The appointing authority states that the salary error was the result of its failure to return the appellant to her underlying permanent title in a timely manner, and as such, the appellant is experiencing a financial hardship as a result of the salary overpayment. The appointing authority confirms that the salary overpayment remains outstanding and has not yet been collected. Even assuming the appellant was unaware of the salary overpayment, she has not shown that repayment, especially if based upon a reasonable repayment schedule, would result in economic hardship. Although the appointing authority on behalf of the appellant claims that the repayment of the overpayment amount would create a financial hardship, she has failed to present any evidence in support of her arguments that she is experiencing such a hardship. *See In the Matter of Yvette Waugh, et al. (Commissioner of Personnel, decided October 25, 1996)* (Lack of documentation in support of claimed economic hardships did not warrant waiver of salary overpayment for employees erroneously awarded salary at the fourth step of the salary range). Further, the assertion that she was assigned duties of the higher-level duties prior to the recording of her interim appointment is not a basis on which waive the salary overpayment. Finally, the Commission notes that the repayment constitutes less than one-half of one percent of the appellant's salary.

ORDER

Therefore, it is ordered that this request be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 19TH DAY OF MAY, 2021



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